

**United States District Court**  
**EASTERN DISTRICT OF TEXAS**  
**SHERMAN DIVISION**

UNITED STATES OF AMERICA

vs.

SHIRLEY ORTEGA TREVINO

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§

Case No. 4:09cr26  
(Judge Schell)

**REPORT AND RECOMMENDATION**  
**OF UNITED STATES MAGISTRATE JUDGE**

Pending before the Court is the request for revocation of Defendant's supervised release. After the District Court referred the matter to this Court for a report and recommendation, the Court conducted a hearing on May 9, 2013, to determine whether Defendant violated her supervised release. Defendant was represented by Frank Henderson. The Government was represented by Ernest Gonzalez.

On December 2, 2009, Defendant was sentenced by the Honorable Richard A. Schell for the offense of Use of Unauthorized Access Device. Defendant was sentenced to twenty-one (21) months' imprisonment followed by a term of supervised release of three years. On October 18, 2010, Defendant completed her period of imprisonment and began her supervised release term.

On March 27, 2013, the U.S. Probation Officer executed a Petition for Warrant for Offender Under Supervision. The petition asserted that Defendant violated the following mandatory conditions: (1) the defendant shall not commit another federal, state, or local crime; (2) the defendant shall not illegally possess a controlled substance; and (3) the defendant shall refrain from any unlawful use of a controlled substance. The petition asserted that Defendant violated the following standard conditions: (1) the defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance, or any paraphernalia related to any controlled substances, except as prescribed by a physician; (2) the defendant shall

report to the probation officer and shall submit a truthful and complete written report within the first five days of each month; (3) the defendant shall notify the probation officer at least ten days prior to any change in residence or employment; and (4) the defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer. The petition asserted that Defendant violated the following special conditions: (1) the defendant shall provide the probation officer with access to any requested financial information for purposes of monitoring defendant's efforts of obtaining and maintaining employment as well as making restitution payments; (2) the defendant shall participate in a program of testing and treatment for drug abuse, under the guidance and direction of the U.S. Probation Officer until such time as the defendant is released from the program by the probation officer; and (3) under the guidance and direction of the U.S. Probation Office, the defendant shall participate in any combination of psychiatric, psychological, or mental health treatment as deemed appropriate by the treatment provider.

The Government offered the testimony of U.S. Probation Officer Linda Werner and Investigator Jesse Garcia. The testimony of both witnesses supported all of the allegations. Defendant offered no witnesses. The Court finds the guideline range in this case is eighteen to twenty-four months. The probation officer recommended twenty-four (24) months of imprisonment.

### **RECOMMENDATION**

The Court finds that Defendant has violated her conditions of her supervised release. Pursuant to the Sentencing Reform Act of 1984 and based upon these violations, the Court recommends that Defendant's supervised release should be revoked. The Court recommends that Defendant be committed to the custody of the Bureau of Prisons to be imprisoned for a term of twenty (20) months to run consecutively with any sentence of imprisonment the Defendant is

serving, with no supervised release to follow. It is also recommended that Defendant be housed at Bureau of Prisons, Carswell Unit.

After the Court announced the recommended sentence, Defendant executed the consent to revocation of supervised release and waiver of right to be present and speak at sentencing. Defendant and the Government also waived their right to file objections.

**SIGNED this 4th day of June, 2013.**

  
AMOS L. MAZZANT  
UNITED STATES MAGISTRATE JUDGE